REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated December 23, 2008. Reconsideration and allowance of the application in view of the remarks to follow are respectfully requested.

In the Final Office Action, claims 1-4 and 6-9 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,434,902 to Bruijns ("Bruijns"). Claims 5 and 10 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Bruijns in view of U.S. Patent No. 5,748,768 to Silver ("Silver"). This rejection of claims 1-10 is respectfully traversed. It is respectfully submitted that claims 1-10 are allowable over Bruijns alone and in view of Silver for at least the following reasons.

In a Response to Arguments section of the Final Office Action, it is stated that "Applicant is advised that the excerpts taken from Bruijns and included in pages 11 and 12 of Applicant's [previous] remarks are preferred embodiments and do not demarcate or encompass the overall limitations of Bruijns' invention." Thereafter, it is stated that "Applicant is referred to column 3, line 64 - column 4, line 9" of Bruijns wherein the Final Office Action alleges that the noted section of Bruijns "is understood as

stating that the pixels in the image (or the image itself) is multiplied by the first correction factor and then the pixels are also multiplied by the second correction factor."

This interpretation of what in fact is taught by Bruijns is respectfully refuted. It is respectfully submitted that in fact, Bruijns teaches combining the correction factors first and then applying the combined correction factor to the image pixels.

As a first point, it is noted that the Final Office Action has selected a passage out of the Summary of the Invention as titled beginning in Col. 1, line 38. The Summary provides no details of how the correction factors are combined with the pixels. Of later note, it is respectfully pointed out here that the details of Bruijns system previously discussed in the Amendment submitted on November 20, 2008, are in fact directed to the details of the same embodiment that is described in the section of the Summary of the Invention that is cited in the Final Office Action in support of the rejection of the claims.

Out of the portion of Bruijns cited in the Final Office Action, namely Col. 3, line 64 through Col. 4, line 9, what is relied on by the Final Office Action for allegedly teaching that which is recited in the claims, is the passage which states

"compensation for vignetting is achieved by multiplying pixel-values pertaining to a perturbed image by a first correction factor and by a second correction factor." (See, Bruijns, Col. 3, line 68 through Col. 4, line 2.)

It is respectfully submitted that this passage does not provide any guidance on how this combination of the pixel values of the image may be combined with the first and second correction factors and in fact, Bruijns shows that first and second correction factors from a PROM 44 are multiplied by an analog multiplier 47 to compute a correction factor for the recombined image (see, Col. 11, lines 11-23). As stated in Bruijn, (emphasis added) "[t]he video signal for the recombined image is supplied to the analog multiplier 29 where the video signal is multiplied by correction factors supplied by the low-pass filter 28, so as to form a corrected analog video signal for the recombined image, which is supplied to the monitor 26 for viewing of the recombined image ..." (See, Col. 11, lines 31-37.)

In other words, Bruijns shows that a combined correction factor is produced from a combined first and second correction factor. Accordingly, it is indisputable that in Bruijns, the combined correction factor is applied to the recombined image to

produce the corrected image as previously discussed by the Applicants.

While the Final Office Action alleges that "Applicant's [previous] remarks are [directed to] preferred embodiments and do not demarcate or encompass the overall limitations of Bruijns' invention", it is respectfully submitted that Applicants remarks are directed to exactly the same embodiment cited in the Final Office Action, but discuss the details provided directly by Bruijns of how Bruijns teaches in the **Detailed Description of the Preferred Embodiments** (see, Bruijns, Col. 7, lines 33-34) to combine the correction factors together first and then apply the combined correction factor to the image pixels.

While Bruijns shows two correction factors, it is respectfully submitted that there are innumerable ways of combining the correction factors and pixels together. In coming to the conclusion that Bruijns "reads directly on the independent claims in question, and no limitations present in the independent claims necessitate an interpretation that obviates the forgoing remarks", it is respectfully submitted that the final Office Action is utilizing impermissible hindsight reconstruction in drawing this conclusion since there are innumerable ways of combining the

correction factors and pixels together as previously stated. Certainly Bruijns provides no support for the way that the Final Office Action proposes is suggested since Bruijns in fact teaches a different method of combination.

In consideration of the use of improper hindsight for rendering a claim obvious in light of prior art, the Federal Circuit has stated that "to draw on hindsight knowledge of the patented invention, when the prior art does not contain or suggest that knowledge, is to use the invention as a template for its own reconstruction - an illogical and inappropriate process by which to determine patentability." (Sensonics, Inc. v. Aerosonic Corp., 81 F.3d 1566, 38 USPQ2d 1551 (Fed. Cir. 1996). "To imbue one of ordinary skill in the art with knowledge of the invention ensued, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." (In re Zurko, 111 F.3d 887, 42 USPQ2d 1476 (Fed. Cir. 1997). "A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art

references and the then-accepted wisdom in the field (cited reference omitted). Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one 'to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher (cited references omitted).'" (In re Kotzab, 208 F.3d 1352, 54 USPQ2d 1308 (Fed. Cir. 2000).

Since Bruijns merely teaches in the section cited that the pixels are multiplied by the correction factors, it is respectfully submitted that it is only through impermissible hindsight that the Final Office Action can make the statement provided in the Final Office Action. It certainly is not through any teaching of Bruijns that the present system is disclosed.

Accordingly, it is respectfully submitted that the system of claim 1 is not anticipated or made obvious by the teachings of Bruijns. For example, Bruijns does not disclose or suggest, a system that amongst other patentable elements, comprises (illustrative emphasis added) "an image artifact reducer arranged to process said planar images with a first corrective image for eliminating a first source of structured noise in said images,

thereby producing a gain corrected image, and arranged to apply a second corrective image to the gain corrected image for eliminating a second source of structured noise in said images" as recited in claim 1, and as similarly recited in each of claims 7 and 10. As discussed in great detail above, Bruijns merely teaches that a combined correction factor is applied to a recombined image. Silver is introduced for allegedly showing elements of the dependent claims and as such, does nothing to cure the deficiencies in Bruijn.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 7 and 10 are patentable over Bruijns alone and in view of Silver and notice to this effect is earnestly solicited. Claims 2-6 and 8-9 respectively depend from one of claims 1 and 7 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the

presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By _____

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
February 17, 2009

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101